

Appl S.N. 10/523176

Amendment to Office Action dated March 9, 2009

REMARKS

Applicant respectfully requests favorable reconsideration and reexamination of this application.

Claims 9, 12-13, 18, and 20-22 have been canceled. Applicant does not concede the correctness of the rejection.

The claim revisions include editorial changes for clarification. In claims 1-8, 10-11, and 14-16, the term "lancing unit" has been replaced with "lancet unit" for clarification. The reference "U" shown for example in Figs. 1 and 7 is a "unit" for mounting a "lancet." In claims 1-2, 4-5, 7, 10-11, 14, 16-17, and 19, the term "lancing member" has been replaced with "lancet" for clarification. "Lancet" is shown, for example, as reference "2" in Figs. 1, 2, 3A, and 7.

Further, revision to claim 1 is supported by, for example, Figs. 1, 2, 3A, 7, and 17-19, and lines 2-16 of page 4, lines 10-11 of page 5, lines 3-6 of page 12, line 27 of page 12 to line 15 of page 13, and lines 1-20 of page 17 in the Specification. Claim 2 -8, 10, and 11 have been revised to track with claim 1, from which they depend. Revision to claim 10 is further supported by, for example, Figs. 4, 11, 14, and lines 15-22 of page 14, and lines 17-26 of page 18 in the Specification. Further, claim 10 has been editorially revised to distinguish the "engagement surface" feature of the "lancet" from the "additional engagement surface" feature of the "analytical part."

Claims 14 and 16 have been revised to depend from claim 7. Claim 17 has been revised and is supported by, for example, Figs. 17-19 and line 5 of page 29 to line 7 of page 32 in the Specification.

Claim 19 has been revised to depend from claim 17 to track with the canceled claim 18. Further, claim 19 has been editorially revised to distinguish the "engagement surface" feature of the "lancet" from the "additional engagement surface" feature of the "analytical part."

There is no new matter. Claims 1-8, 10-11, 14-17, and 19 are pending.

Drawings

Applicant notes that the item 10 on the Office Action Summary does not indicate that the drawings filed are accepted. Applicant respectfully requests confirmation that the drawings are accepted in the next official communication.

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Claim Objections

Claim 18 was objected to because of an informality. Claim 18 has been canceled, making this objection moot. Applicant respectfully requests withdrawal of the objection.

Claim Rejections – 35 USC § 112

Claims 14-16 were rejected under 35 USC 112, second paragraph, as being indefinite because in base claim 14, the term “the cap” and “the first and second engagement means” lack antecedent basis. Claims 14 and 16 have been revised to address the rejection. Claim 15 depends on claim 14. Applicant respectfully requests withdrawal of the rejection.

Claim Rejections – 35 USC § 102

Claims 1-5, 7-14, 16, and 20-22 were rejected under 35 USC 102(b) as being anticipated by Duchon et al. (US 5879311). Applicant does not concede the correctness of the rejection.

Claims 9, 12-13, and 20-22 have been canceled making the rejection against them moot. Applicant does not concede the correctness of the rejection.

Claim 1 is directed towards a lancet unit. The lancet unit supplies a lancet to and removes the lancet from a lancing apparatus. The lancet unit includes a case that temporarily attaches to the housing of the lancing apparatus at the time of supplying the lancet to and removing the lancet from the lancing apparatus. Accordingly, the case of the lancet unit does not form any part of the housing of the lancing apparatus. Thus, the lancet unit is a separable feature that is distinguishable from the lancing apparatus.

In contrast, Duchon et al. discloses a “device for sampling body fluid” (See Title and Abstract, Figs. 1, 3A-3H, and 4). Accordingly, Duchon et al. merely discloses a lancing apparatus. Duchon et al. does not disclose a device for supplying a lancet to and removing the lancet from the lancing apparatus disclosed in the reference. The structural features of the lancing apparatus according to Duchon et al. are not analogous to the structures claimed.

The Office Action, on page 5, paragraph 8, conceded that Duchon et al. “does not disclose a removal tool with engagement means for entering the housing for engagement with an engagement surface of the lancing member.”

In contrast, claim 1 requires a lancet unit for supplying a lancet to and removing the lancet from the lancing apparatus, including a case that is configured to be temporarily attached

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to the housing of the lancing apparatus at the time of supplying the lancet to and removing the lancet from the lancing apparatus, an engagement means provided on the support member within the case for removing the lancet from the lancing apparatus, and wherein the engagement means is inserted into the housing of the lancing apparatus through the opening for engagement with the engagement surface of the lancet for subsequent removal of the lancet from the movable member of the lancing apparatus when the case is attached to the housing of the lancing apparatus in a second state.

Claim 1 is patentable over Duchon et al. Claims 2-5, 7-8, 10-11, 14, 16 are patentable over Duchon et al. for at least the same reasons as claim 1 from which they depend. Applicant respectfully requests a favorable reexamination and reconsideration of the claims.

On page 5 of the Office Action (paragraph 8) claims 17-19 were rejected under 35 USC 102(b) as anticipated by Duchon et al. Claim 18 has been canceled making this rejection moot against it. Applicant does not concede the correctness of the rejection.

Claim 17 is directed towards a lancet removal tool for removing a lancet from a movable member of a lancing apparatus. As stated above, Duchon et al. fails to disclose any feature beyond a lancing apparatus. Duchon et al. "does not disclose a removal tool with engagement means for entering the housing for engagement with an engagement surface of the lancing member" (Office Action, on page 5, paragraph 8). Thus, Duchon et al. does not anticipate claim 17. Claim 17 is patentable over Duchon et al. Claim 19 is patentable over Duchon et al. for at least the same reasons as claim 17 from which it depends. Applicant respectfully requests a favorable reexamination and reconsideration of the claims.

Claim Rejections – 35 USC § 103

Claim 15 was rejected under 35 USC 103(a) as being unpatentable over Duchon et al. in view of Mitchen (US 5014718). Applicant does not concede the correctness of the rejection.

Mitchen fails to remedy the deficiencies of Duchon et al. stated above in regard to claim 1. Thus, claim 15 is patentable for at least the same reasons as claim 1 from which it depends. Applicant respectfully requests a favorable reexamination and reconsideration of the claims.

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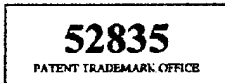
On page 5 of the Office Action (paragraph 8) claims 17-19 were rejected under 35 USC 103(a) as being unpatentable over Duchon et al. in view of Schraga (US 5454828, Applicant respectfully notes that the body of the Office Action mistakenly identified this reference as "6454828"). Applicant does not concede the correctness of the rejection.

Schraga fails to remedy the deficiencies of Duchon et al. stated above in regard to the 102(b) rejection of claim 17. Schraga teaches "a lancet unit 10" having a "sleeve 24" that surrounds the "tip 14" (see column 4, lines 9-10; also see Figs. 2-4).

Schraga's "sleeve 24" does not have a case that temporarily attaches to the housing of the lancing apparatus at the time of removing the lancet from the lancing apparatus. Schraga also fails to teach that the "sleeve 24" has a support member provided in the case. Further, Schraga fails to teach engagement means provided on the support member within the case for entering the housing through the opening for engagement with.

For at least the above reasons, claims 17 and 19 are patentable over Duchon et al. in view of Schraga. Applicant respectfully requests a favorable reexamination and reconsideration of the claims.

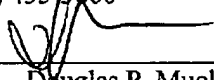
In view of the above, early issuance of a notice of allowance is solicited. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300 at (612) 455-3804.



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Respectfully submitted,

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